

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ERNESTO SANTIAGO,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-335 ERIE
)	
THE UNITED STATES OF AMERICA,)	JUDGE McLAUGHLIN/
)	MAGISTRATE JUDGE BAXTER
Defendant.)	

**DEFENDANT'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

AND NOW, comes defendant, United States of America, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Paul E. Skirtich, Assistant United States Attorney for said district, and respectfully submits the files this Statement of Material Facts in support of its Motion for Summary Judgment.

1. Plaintiff brought this medical malpractice and negligence action pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2672 ("FTCA"). Complaint, page 1.
2. Plaintiff alleges in his Complaint that the medical staff at the FCI McKean in McKean, Pennsylvania negligently treated Plaintiff's infected lips. Complaint at ¶ 1-3, 38.
3. Pursuant to this Court's Case Management Order dated July 5, 2005 ("Case Management Order"), discovery was to be completed by October 4, 2005.
4. Pursuant to L.R. 16.1.4(A)(1)(2), all expert reports were to be filed by October 18, 2005.
5. On October 18, 2005, Plaintiff filed his Pretrial Narrative Statement but did not attach an expert report.
6. To date, Plaintiff has not produced an expert report regarding the alleged negligent care of Plaintiff to counsel

for Defendant. All expert reports had to be attached to Plaintiff's Pretrial Narrative Statement or the testimony of such expert would be excluded at trial.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

/s/ Paul E. Skirtich
PAUL E. SKIRTICH
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CERTIFICATE OF SERVICE

I hereby certify that I have served this date a copy of the
within **DEFENDANT'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF**
MOTION FOR SUMMARY JUDGMENT, either electronically or by first-
class United States mail, upon the following:

Ernesto Santiago
#90304-038
Federal correctional Institution McKean
P. O. Box 8000
Bradford, PA 16701

/s/ Paul E. Skirttich
PAUL E. SKIRTICH
Assistant U.S. Attorney

Dated: December 23, 2005